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Date: June 17, 2008 Name: Marc V. Richards (37,921) Signature: 

CASE NO. 10022/234

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:)

Jeffrey A. Stocker et al.)

Serial No.: 10/087,158)

Filed: March 1, 2002)

For: AUTOMATIC GENERATION)
OF PERSONAL HOMEPAGES)
FOR A SALES FORCE)

Group Art Unit: 2178

Confirmation No.: 2612

Examiner: Vaughn, Gregory J.

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Commissioner for Patents
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Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the Final Office Action mailed on January 8, 2008 (hereinafter "the Final Office Action"), in the above-identified application as to Claims 1-3, 5-16 and 19-26. Claims 1 and 14 are independent. No amendments are being filed with this request. A Notice of Appeal is being filed concurrently and is included herewith. Review is requested for the reasons indicated in the following Remarks.

REMARKS

The Office Action rejected claims 1-3, and 5-8 under 35 U.S.C. § 103(a) as being unpatentable over Pinard et al. (U.S. Patent No. 5,940,834) in view of Graham et al. (U.S. Patent Publication No. 2004/0205537), and in further view of Alcorn et al. (U.S. Patent No. 6,988,138) (i.e., the Pinard-Graham-Alcorn combination). Office Action at p. 2. The Office Action rejected claims 9-16, and 19-26 under 35 U.S.C. § 103(a) as being unpatentable over Pinard in view of Graham, in further view of Alcorn in further

view of Kitain et al. (U.S. Patent No. 5,864,871) (i.e., the Pinard-Graham-Alcorn-Kitain combination). Office Action at p. 7. Applicants respectfully assert that a clear legal and factual deficiency is present in the support for the present 35 U.S.C. § 103(a) rejections of the claims. .

1. **Claims 1-3 and 5-8**

Applicants traverse the rejection of claims 1-3, and 5-8 under 35 U.S.C. §103 as being unpatentable over Pinard et al. (U.S. Patent No. 5,940,834, hereinafter Pinard) in view of Graham et al. (U.S. Patent Publication No. 2004/0205537, hereinafter Graham), and in further view of Alcorn et al. (U.S. Patent No. 6,988,138, hereinafter Alcorn) (i.e., the Pinard-Graham-Alcorn combination). In particular, independent claim 1 recites a computer system for generating personal homepages:

"wherein the personal homepage for said member is disabled from any viewing on the Internet when said employment status data indicates the member is not employed by an organization."

One reason for withdrawing the rejection is that contrary to the stated rejection, Graham clearly fails to teach or suggest that employment status may be used to control any functionality of the system. In particular, the Office Action relies on passages at page 1, paragraph 12 and page 3, paragraph 32 of Graham as allegedly teaching the capture and ***use of employment status to control access***, and alleges that it would be obvious to combine Graham's alleged teaching with Pinard's personal web page system. However, Graham **fails** to disclose the use of the employment status for any functionality related to access control. Graham teaches to create, update and access the employment status. Instead of "using" employment status to control functionality, Graham teaches the use of a separate database containing "access control lists" to control access to intellectual property. See para. 0025. Because Graham provides for other means to control access, it would not be obvious to one skilled in the art to modify Graham and use the employment status, but instead use the "access control lists" as taught by Graham when combining the teachings with Pinard. Accordingly, the rejection should be withdrawn.

A second reason for withdrawing the rejection is that Alcorn also fails fill the gap and fails to teach or make obvious the use of employment status in a database to control web page access. The Office Action has conceded at page 5 that "Graham's capture and use of employment status information to control functionality of the system fails to explicitly teach using the information to control access by disabling the web page from any viewing on the network." The rejection relies on Alcorn for teaching "database control access of Alcorn in order to use a database to disable specific web pages." Arguably, Alcorn discloses a system where an instructor has the ability to manually disable the availability of auxiliary web tools and web pages associated with an internet-based classroom web page. The Office Action asserts that this teaches the use of a database to control access to web pages. Assuming *arguendo* that the manual instructions to disable the webpage are stored in a database for later use, Alcorn never discloses that a surrogate variable data, such as employment status as recited in claim 1, may be used as a source to disable the web page. Rather, Alcorn teaches using the manually entered instructions that were presumably stored in a database to disable the webpage. Applicants submit that the rejection is legally and factually deficient because the use of a direct disable command from a database to disable a webpage does not make it obvious to use employment status in a database to disable a webpage, especially where the employment status was not shown in the prior art to be used for controlling functionality. Accordingly, the rejection should be withdrawn.

Applicants traverse the rejections of claims 2-3, and 5-8, which depend directly or indirectly on claim 1, and are therefore patentable for the reasons stated above with respect to claim 1.

Claim 3 is separately patentable because contrary to the rejection, Pinard's disclosure of a PBX is not the disclosure of a server to generate web pages, as recited by claim 3. A PBX is a phone exchange that provides telephony communications, which may be controlled via web pages generated by other means, or may provide data for a directory web page generated by other means. Accordingly, this rejection should be withdrawn.

2. Claims 9-13

Applicants traverse the rejection of dependent claims 9-13 under 35 U.S.C. § 103(a) as being unpatentable over Pinard in view of Graham, in further view of Alcorn and in further view of Kitain et al. (U.S. Patent No. 5,864,871, hereinafter Kitain) (i.e., hereinafter the "Pinard-Graham-Alcorn-Kitain" combination).

The Pinard-Graham-Alcorn-Kitain combination fails to disclose the limitations of independent claim 1, as the Applicants have pointed out above, from which claims 9-13 depend directly or indirectly. Kitain fails to fill the gaps of the Pinard-Graham-Alcorn combination by failing to teach using the employment status of a member to disable that member's webpage from any viewing. Hence, dependent claims 9-13 are also allowable, and therefore patentable for the reasons stated above with respect to claim 1.

3. Claims 14-16 and 19-26

Claims 14-16, and 19-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pinard in view of Graham, in further view of Alcorn in further view of Kitain (i.e., the "Pinard-Graham-Alcorn-Kitain" combination). Applicants traverse this rejection. In particular, independent claim 14 recites a method of automatically generating customized personal Web homepages:

"automatically disabling the personal homepage for any viewing on the Internet when said updated personal data includes data indicating that the member is not employed by the organization."

One reason for withdrawing the rejection, as the Applicants have pointed out above, with regard to claim 1, the Pinard-Graham-Alcorn combination does not teach or suggest all the limitations of independent claim 1, which are similar in certain respects to claim 14. In particular, as explained above, these references fail to teach using a member's employment status for automatically disabling a personal webpage for that member, as recited in claim 14. Kitain fails to fill this gap, and the rejection should be withdrawn for this reason.

A second reason for withdrawing the rejection is that Kitain fails to teach periodically retrieving updated personal data for updating that data on a webpage. Rather, Kitain teaches updating data in a database, but fails to teach periodically retrieving that updated data to populate a webpage with the updated data, as recited in claim 14. Therefore, the rejection should be withdrawn for this additional reason.

Applicants traverse the rejections of claims 15-16, and 19-26, which depend directly or indirectly on claim 14, and are therefore patentable for the reasons stated above with respect to claim 14.

The present pending claims of this application are not taught, suggested, disclosed or made obvious by the Pinard-Graham- Alcorn combination or the Pinard-Graham-Alcorn-Kitain combination. Applicants respectfully assert that a clear legal and factual deficiency is present in the support for the present 35 U.S.C. § 103(a) rejections of the claims. Thus, Applicants respectfully request that the panel issue a decision so indicating.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marc V. Richards", written over a horizontal line.

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